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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,533	12/19/2003	Michael H. Bertucci	JD-327	1532
24804	7590	03/07/2006	EXAMINER	
S.C. JOHNSON COMMERCIAL MARKETS INC			GANEY, STEVEN J	
8310 16TH STREET, M/S 510				
PO BOX 902			ART UNIT	
STURTEVANT, WI 53177-0902			PAPER NUMBER	
			3752	

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/707,533		BERTUCCI ET AL.	
	Examiner		Art Unit	
	Steven J. Ganey		3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,8-12,15 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 3,6,7,13,14,16 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/21/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: On page 3, paragraph 23, the insertion of the phrase “providing a first support member” should be deleted and instead inserted after the phrase “as well as cavities 18”. This change should be done since it is each cavity 18 that provides support for the spouts(i.e. a first support member) and since claims 4 and 14 further recite two first support members. There is only one platform 14 disclosed and shown not two platforms therefore providing the description after the phrase “platform 14” would not be consistent with what is shown in the drawings and further described in the specification. On page 3, paragraph 24, the phrase “the vertical first portion 46” should be changed to --a vertical first portion 46--.

Appropriate correction is required.

Claim Objections

2. Claims 1-3, 5, 6, 10-13, 15, 16, and 20 are objected to because of the following informalities: In claims 1 and 11 only “a first support member” and “a second support member” in a singular recitation are claimed, however, claims 4, 8, 14 and 18 further recite that there “two first support members” and “two seconds support members” in a plural recitation. This is inconsistent and confusing since claims 1 and 11 only indicate that one first support member and one second support member can be provided not one or more. Language such as --at least one first support member-- and --at least one second support member-- should be inserted in lines 3

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and 5 of claim 1 and lines 4 and 5 of claim 11 instead of “a first support member” and “a second support member” respectively. In claims 1 and 11, line 5, the phrase “the first and second support” should be changed to --the at least one first and second support--. In claims 1 and 11, lines 7, 8 and 9, the phrase --at least one-- should be inserted before every instance of the phrases “first support member” and “second support member”. In claims 1 and 11, line 9, the phrase “a container” should be --the container--, since “a container” has already been recited in line 5. In claims 2, 3, 5, 6, 12, 13, 15 and 16, the phrase --at least one-- should be inserted before every instance of the phrases “first support member” and “second support member”. In claim 5, line 2, the phrase “a dispenser nozzle therein” should be changed to --the nozzle portion of the dispensing device therein--, to be consistent with claim 1, line 3. In claim 10, line 1, the numeral “1” should be changed to either --2-- or --5-- such that proper antecedent basis is given for “the cavity”. In claim 15, line 2, the phrase “a dispenser nozzle therein” should be changed to --the nozzle portion of the dispensing device therein--, to be consistent with claim 1, line 3. In claim 20, line 1, the numeral “11” should be changed to either --12-- or --15-- such that proper antecedent basis is given for “the cavity”. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 4, 8, 9, 18 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 4, line 2, the recitation of "said first support members" lacks antecedent basis since only "a first support member" in singular recitation has been presented in claim 1, not one or more. Corrections as presented in paragraph 2 above should be done and language such as --there are two first support members-- should be used in claim 4.

In claims 8 and 18, line 2, the recitation of "said second support members" lacks antecedent basis since only "a first support member" in singular recitation has been presented in claims 1 and 11, not one or more. Corrections as presented in paragraph 2 above should be done and language such as --there are two first support members-- should be used in claims 8 and 18.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 2, 5, 10-12, 15 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Toetschinger et al.

Toetschinger et al shows an apparatus comprising a first support member defined by a platform 235d and a cavity/passage 235e for receiving a nozzle portion 227 of a dispensing device 200; a second support member 208 for holding a container 201; a frame member 202/203/204/205; and supporting structure 206/207.

7. Claims 1, 2, 5, 8, 10-12, 15, 18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Decker et al.

Decker et al shows an apparatus comprising a first support member defined by a platform 12, a cavity 30/55 and passage 56/57 for receiving a nozzle portion 34 of a dispensing device 18; a plurality of second support members 15/44-47 and 17/44-47 for holding a container 22; a frame member comprising a first portion 21 and a second portion 13; and supporting structure 11.

Allowable Subject Matter

8. Claims 3, 6, 7, 13, 14, 16 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 4, 9 and 19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

10. Applicant's arguments with respect to claims 1, 2, 5, 8, 10-12, 15, 18 and 20 have been considered but are moot in view of the new grounds of rejection.


Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven J. Ganey whose telephone number is (571) 272-4899. The examiner can normally be reached on Monday, Tuesday, Wednesday, and Thursday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel, can be reached on (571) 272-4919. The fax phone number for this Group is (571) 273-8300.


STEVEN J. GANEY
PRIMARY EXAMINER
3/3/06

sjg

3/3/06